

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Case No. 2:20-cv-11240

v

Hon. Terrence G. Berg

MENARD, INC.

Defendant.

KENNETH BIRD
OMAR WEAVER (P58861)
MILES L. UHLAR (P65008)
Equal Employment Opportunity Commission
Detroit Field Office
Patrick V. McNamara
477 Michigan Avenue, Room 865
Detroit, MI 48226
(313) 226-4620
miles.uhlar@eeoc.gov
Attorneys for Plaintiff

GARY K. ROEHM (P76291)
Menard, Inc.
5101 Menard Drive
Eau Claire, WI 54703
(715) 876-2445
groehm@menard-inc.com
Attorney for Defendant

CONSENT DECREE

The United States Equal Employment Opportunity Commission (“the Commission”) filed this action against Menard, Inc., (hereinafter “Defendant”) to enforce Title VII of the 1964 Civil Rights Act (“Title VII”). The Commission alleged that Defendant violated Title VII by subjecting Renee Knowles and Stacy Robinson to a sexually hostile work environment at Defendant’s Wixom, Michigan location.

It is the intent of the parties that this Consent Decree shall be a final and binding settlement in full disposition of the Complaint. It is therefore the finding of this Court, made on pleadings and the record as a whole, that: 1) the Court has jurisdiction over the parties and the subject matter of this action; 2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of this Consent Decree; and 3) this Consent Decree fully and finally resolves all matters in controversy arising out of this Complaint.

Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED:

NON-DISCRIMINATION

1. Defendant and its officers, agents, employees, successors, assigns and all persons in active concert or participation with them

are enjoined for the duration of this decree from a) subjecting employees to a hostile work environment based on sex, b) failing to investigate internal complaints of sexual harassment, c) failing to take corrective remedial action to address sexual harassment, and d) retaliating against any employee because s/he (i) opposes discriminatory practices made unlawful by Title VII, (ii) files a charge of sexual harassment, or (iii) assists or participates in an investigation or proceeding brought under Title VII.

MONETARY RELIEF

2. Within fourteen days of the entry of this decree, Defendant shall pay a total of \$25,000.00 in monetary relief, to be distributed as follows:

a. Defendant shall pay \$22,500.00 in compensatory/punitive damages to Renee Knowles.

b. Defendant shall pay \$2,500.00 in compensatory/punitive damages to Stacy Robinson.

3. Defendant shall not deduct any amounts from the payments of compensatory/punitive damages, but shall issue IRS 1099-MISC forms in the ordinary course of business.

4. Defendant shall send payment directly to Renee Knowles and Stacey Robinson at the addresses provided by the Commission under separate cover. Within seven (7) days after each payment is made, Defendant shall e-mail a copy of each check to monitoring-eeoc-indo@eeoc.gov and miles.uhlar@eeoc.gov.

TRAINING

5. Within sixty (60) days from the entry of this Decree and thereafter on an annual basis for the duration of this Decree, Defendant shall train Miguel Duran, Steven McDonald, Kimberly Miller, Troy Barry, John Moores, and all managers at its Wixom, Michigan location on sex discrimination and sexual harassment. Each training session shall last at least one (1) hour and contain an opportunity for employees to ask the trainer questions. Each session shall be conducted live, either in person or via any form of live videoconferencing. Pre-recorded video shall not be acceptable. At least fifteen (15) days before the training, Defendant shall provide an outline and written materials to the Commission for its review at the address below. The Commission may provide input into the training no later than three (3) business days before the training. New employees shall be trained within seven (7) days from when they first

start working for Defendant. Employees shall register when they attend live trainings. For the duration of this Decree and on an annual basis, Defendant shall retain a registry of all employees who have completed the live trainings and forward a copy of the names of these individuals to Kenneth Bird, Regional Attorney, care of Miles Uhlar, Trial Attorney, EEOC, 477 Michigan Ave., Room 865, Detroit, MI 48226. Copies of the names of these individuals shall also be e-mailed to monitoring-eeoc-indo@eeoc.gov and miles.uhlar@eeoc.gov.

REVISED CORRECTIVE POLICY

7. The Commission is in receipt of Defendant's revised Non-Discrimination, Non-Harassment, Sexual Harassment and Anti-Retaliation Policy dated December 1, 2018. If Defendant decides to make any revisions to this policy during the term of this decree, at least fourteen (14) days before doing so it must send a copy of the proposed changes to Kenneth Bird, Regional Attorney, care of Miles Uhlar, Trial Attorney, EEOC, 477 Michigan Ave., Room 865, Detroit, MI 48226, and via e-mail to monitoring-eeoc-indo@eeoc.gov and miles.uhlar@eeoc.gov. The Commission shall then have the opportunity to submit suggested changes.

DISSEMINATION OF HARASSMENT POLICIES AND
PROCEDURES

8. The revised policy dated December 1, 2018 referenced in paragraph 7 above shall be distributed to each current employee of the Wixom, Michigan location within sixty (60) days of the date this Decree has been entered by the Court and to each new employee when hired.

NOTICE POSTING

9. Within sixty (60) days of the entry of this Decree, Defendant shall post the Notice attached as Attachment A in a prominent, conspicuous and accessible place in the Wixom, Michigan location where employee notices are posted. The Notice shall be posted throughout the term of this Consent Decree. Written confirmation that the Notice has been posted shall be mailed to Kenneth L. Bird, c/o Miles L. Uhlar, Trial Attorney, EEOC, 477 Michigan Avenue, Room 865, Detroit, Michigan 48226 and shall also be sent via email to monitoring-eeoc-indo@eeoc.gov. Should the notice become defaced, marred, or otherwise made unreadable, Defendant will post a readable copy of the Notice as soon as practicable.

PRIVATE SPACE FOR HUMAN RESOURCES AND/OR EMPLOYEE
COMPLAINTS

10. Defendant shall create a private space at its Wixom, Michigan location where all employees may speak to their manager in private regarding a potential harassment issue. If any employee indicates to a manager he or she would like to speak to the manager in private, the manager shall promptly offer to go to this space as soon as is practical to speak with the employee.

REPORTING BY DEFENDANT AND ACCESS BY EEOC

11. Defendant shall submit two reports to the Commission (“Compliance Reports”), which detail Defendant’s compliance with this Consent Decree. The first report shall be due twelve months after the entry of this Decree. The final report shall be due ninety (90) days before the expiration of the Decree.

12. The first compliance report shall contain the following information for the twelve months preceding the deadline for that report: (a) the name, home address, home telephone number, e-mail address and cell phone number of any employee at Defendant’s Wixom, Michigan location who made allegations, orally or in writing, about sex discrimination, sexual harassment and/or retaliation in the preceding

twelve months; (b) the nature of the complaint; (c) a description of Defendant's investigation in response to the complaint; (d) the conclusions of the investigation; (e) the corrective action taken, if any; and (f) the names, titles, phone numbers and e-mail addresses of any and all Defendant employees who investigated the complaint(s). The second compliance report shall contain all of the above information for the 15 months preceding the deadline for that report. If no such complaints were made, Defendant shall submit the required report and indicate it did not receive any complaints during the time period.

13. The Commission shall have the right during regular business hours, hereby defined as Monday through Friday, 8:00 a.m. to 5:00 p.m., to enter and inspect Defendant's Wixom, Michigan location to ensure compliance with this decree.

DURATION

14. Absent extension, this Decree shall expire by its own terms thirty months (30) from the date it has been entered by the Court without further action of the parties.

DISPUTE RESOLUTION AND COMPLIANCE

15. This Court shall retain jurisdiction over this action for the duration of this Decree and shall have all equitable powers, including injunctive relief, to enforce this Decree. Upon motion of the Commission, the Court may schedule a hearing for the purpose of reviewing compliance with this Decree. The parties shall engage in a good faith effort to resolve any dispute as to compliance prior to seeking review by the Court, and the EEOC shall be required to give the Defendant ten (10) days' notice before moving for such review. The EEOC may conduct written discovery under the Federal Rules of Civil Procedure for purposes of determining compliance with this Decree. Should the Court determine that Defendant has not complied, the Court may order appropriate relief, including extension of the Decree for the time necessary to remedy non-compliance, and attorney's fees and costs.

16. If Defendant fails to comply with any provision of this Decree, it shall have ten (10) days to cure its non-compliance. If the Court determines Defendant did not comply, a penalty shall accrue up to a maximum amount of \$500 per day, from the date it was determined that Defendant failed to comply with the Decree through the date

Defendant is in compliance with the Decree again. The Court shall determine the amount of any penalty.

17. In the event Defendant does not comply with any provision of this Decree, and the Commission must petition the Court to order Defendant to comply, the Commission is entitled to an order requiring the payment of the daily penalty provided for in the above paragraph. In addition, Defendant shall pay all attorney's fees and costs incurred by the Commission to enforce the Decree.

MISCELLANEOUS

18. Except as provided in paragraphs 15 through 17, each party will bear its own costs and fees.

19. If any provision of this Decree is found to be unenforceable or unlawful, only the specific provision in question shall be affected and the other provisions shall remain in full force and effect.

20. This Decree constitutes the entire agreement and commitments of the parties. Only the Court may modify this Decree.

21. The terms of this Consent Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and

assigns of Defendant. The Defendant will provide prior written notice to any potential purchaser of Defendant's business, or a purchaser of all or a portion of Defendant's assets, and to any other potential successor, of the Commission's lawsuit, the allegations raised in the Commission's Complaint, and the existence and contents of this Consent Decree. Prior to selling any or all of its business or assets, the Defendant shall provide the buyer with a copy of this Consent Decree and shall notify the EEOC of the impending sale as far in advance of the sale as possible.

22. It is acknowledged that monetary relief agreed to in settlement of damages, set forth herein, constitutes a debt owed to and collectible by the United States. Should Defendant file for relief under the U.S. Bankruptcy code, this debt shall be deemed a judgment for an intentional tort against the United States.

IT IS SO ORDERED:

/s/Terrence G. Berg
Hon. Terrence G. Berg
United States District Judge
Date: March 31, 2021

Approved as to form:

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

/s/ Miles Uhlar
MILES L. UHLAR (P65008)
DETROIT FIELD OFFICE
Patrick V. McNamara Federal Building
477 Michigan Ave, Room 865
Detroit, Michigan 48226
(313) 226-4620
miles.uhlar@eeoc.gov
Date: 3/29/21

MENARD, INC.

/s/ Gary Roehm
GARY K. ROEHM (P76291)
Menard, Inc.
5101 Menard Drive
Eau Claire, WI 54703
(715) 876-2445
groehm@menard-inc.com
Attorney for Defendant

Date: 3/29/31

EXHIBIT A - NOTICE



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Indianapolis District Office**

101 West Ohio Street, Suite 1900
Indianapolis, IN 46204-4203
(800) 669-4000; TTY (800) 669-6820
FAX (317) 226-7953 & 5571

**THIS NOTICE IS POSTED PURSUANT TO A CONSENT DECREE
ENTERED INTO BETWEEN THE EEOC AND MENARD, INC.
REGARDING SEXUAL HARASSMENT IN THE WORKPLACE**

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964. It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. The harasser can be anyone, including the business owner, the victim's manager, supervisor, a manager or supervisor from another location, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Menard, Inc. will not tolerate any form of sexual harassment or sex discrimination. An employee has the right to complain of discrimination or harassment in the workplace. An employee may contact the Equal Employment Opportunity Commission (EEOC) for the purpose of filing a charge of employment discrimination or reporting sexual harassment.

In compliance with federal law, no owner, manager, official or supervisor at Menard, Inc. will retaliate against an employee who makes an internal complaint of discrimination, verifies a complaint of discrimination, participates in the investigation of a discrimination complaint or contacts the EEOC or its state counterpart.

SIGNED this _____ day of _____, 2020.

, General Manager

Questions concerning this notice may be addressed to:
Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (800) 669-4000 - TDD (800) 669-6820

This OFFICIAL NOTICE shall remain posted for thirty (30) months from date of signing.